IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1105 OF 1992

The State of Maharashtra ..Appellants

versus

Laxman Raoji Patil & ors. ..Respondents

Mr. S. N. Gawade for the Appellants.

None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 8TH APRIL,2005

ORAL ORDER :

1. Heard learned AGP for the Appellants - State. Nobody is present for the Respondents.

2. This appeal is filed by the Appellants challenging the order of the Reference Court dated 13.11.1991 under the Land Acquisition Act.

3. Land admeasuring 1 H 32 R of Gat No.221 was acquired by Notification under Section 4 dated 26.7.1984. Out of this land 67 R was dry land and 65 R was Potkharab land. For the dry land the SALO awarded Rs.6,000/- per hectare and for Potkharab land Rs.200/- per hectare was granted. Therefore

Reference came to be filed at the instance of the claimants. Reference Court awarded Rs.23,000/- per hectare for the 67 R land and therefore State has filed this Appeal challenging the enhancement.

4. It appears from the judgment that one sale instance Exhibit ’22’ of one Khandu Baviskar of May 1984 was tendered by the claimant wherein 3.5 R of land was purchased for Rs.32,250/- . The price per hectare comes to Rs.23,035.70 paise). The said Khandu purchased another piece of land admeasuring 3.5 acres in the name of his wife at the same price and it was this sale instance which was relied upon by the court to come to the conclusion that market price of the acquired land was Rs.23,000/- per hectare.

5. On behalf of the State one Satish Musale was examined. The sale deed was of 1981 and he had purchased 2 H 20 R of land at the rate of Rs.4545.35 paise per hectare. However, the witness in his cross examination stated that the distance of land of the claimant and the land which was subject matter of the sale deed were 8 kms. Apart the court rejected the contention of the AGP the Government pleader that the witness Satish was won over by the claimants. The court held that Satish Musale was giving wrong information or evidence to the court

about the distance, the State could have produced the map or examined other witness. I find no fault with this reasoning. Therefore, at any rate the evidence of Satish cannot be of any help to the State.

6. Net result is that the sale instance proved by the claimant of Khandu Exhibit 22 has to be taken as basis and therefore compensation awarded at Rs.23,000/- per hectare has to be held as proper. However, if out of 1 H 32 R, 67 R was only cultivable dry land and 65 R was potkharaba land, then awarding compensation at the same rate for both types of land was not proper. SALO has awarded Rs.200/- per hectare for Potkharaba land that does not seem to be proper. Rs.5,000/- per hectate would be proper for Potkhara land. Therefore following order :

ORDER

. Appeal is partly allowed.

. Claimants shall be entitled to get compensation at Rs.20,000/- per Hectare for 67 R and at Rs.5,000/- per hectare for remaining 65 R of land. Consequently benefits will stand reduced proportionately. No order as to costs.

8.04.2005 (D.G. DESHPANDE, J.)